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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,550	08/22/2003	Kevin Wade Jameson	CFSTP015	9133

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EXAMINER	
RADTKE, MARK A	

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/645,550	JAMESON, KEVIN WADE	
	Examiner	Art Unit	
	MARK A. X RADTKE	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 February 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Remarks

1. In response to communications filed on 15 February 2008, claims 22-42 are presently pending in the application, of which, claim(s) 22, 29 and 36 is/are presented in independent form.

2. A terminal disclaimer was filed 7 January 2008 to overcome the double patenting rejection. The terminal disclaimer is still pending. Accordingly, the double patenting rejection is upheld until the disclaimer is considered. The Examiner apologizes for any inconvenience.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 22, 29 and 36 of the instant application are provisionally rejected under the judicially created doctrine of double patenting over claims 1 and 9 of copending Application No. 10/645,487 (Jameson, U.S. Publication No. US 2005/0044095 A1).

Claims 22, 29 and 36 of the instant application are considered obvious over claims 1 and 9 of Patent Application No. 10/645,487 (Jameson, U.S. Publication No. US 2005/0044095 A1).

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a

patent claim to a species within that genus)." ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 22-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sundararajan (U.S. Patent 6,487,577).

As to claim 22, Sundararajan teaches method for performing a symbolic task operation on a collection, (see Abstract), comprising:

receiving a request from a request originator to perform a collection processing operation on a collection reference expression (see figure 6a and see column 7, lines 58-60, where "request originator" is read on "client" and where "collection processing operation" is read on "job");

performing the collection processing operation on the collection (see column 7, lines 15-17, where "performs" is read on "executes"); and

returning results of the collection processing operation to the request originator (see column 7, lines 60-62)

wherein the request includes a collection reference expression, wherein the collection reference expression includes a sequence of characters that refers to the collection (see column 3, lines 51-62, "job type identification"), and wherein the collection includes collection specifier information and collection content information (see column 4, lines 22-28, "job-shop").

Sundararajan does not explicitly teach wherein the request includes a symbolic task name.

However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. In the context of the claimed invention, the collection processing operation would be performed the same regardless of the data structure sent in the request. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, (see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994)).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art at the time the invention was made to perform the collection processing operation based on any request parameters, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of data does not patentably distinguish the claimed invention.

As to claims 23, 30 and 37, Sundararajan, as modified, teaches wherein

wherein performing the collection processing operation includes expanding the collection reference into a list of particular individual collections (See column 3, lines 51-61. Specifically, the database look-up portion of the citation discloses an ID number which can be used to "provide the SC computer with information on [...] the job". See also column 4, lines 14-28.).

As to claims 24, 31 and 38, Sundararajan, as modified, teaches wherein

wherein performing the collection processing operation includes expanding the collection reference into a list of job triplets including an individual collection name, a computing platform name, and a processing dependency visit order value. (see column 3, lines 51-61 and see figure 7 and see column 8, lines 44-64).

As to claims 25, 32 and 39, Sundararajan, as modified, teaches wherein

wherein performing the collection processing operation includes maintaining a proper execution ordering among collection symbolic job requests and lists of expanded job triplets (see figure 7 and see column 8, lines 44-64).

As to claims 26, 33 and 40, Sundararajan, as modified, teaches wherein

wherein performing the collection processing operation includes expanding a first-level symbolic task name into a sequence of second-level task part statements (see column 7, lines 1-12).

As to claims 27, 34 and 41, Sundararajan, as modified, teaches wherein

wherein performing the collection processing operation includes dynamically calculating a set of detailed executable commands (see column 4, lines 22-28).

As to claims 28, 35 and 42, Sundararajan, as modified, teaches wherein

wherein performing the collection processing operation includes executing platform-dependent computing commands (see column 5, lines 14-19).

As to claim 29, Sundararajan teaches a system for performing symbolic task operations on collections (see Abstract), including:

For the remaining steps of this claim applicant(s) is/are directed to the remarks and discussions made in claim 22 above.

As to claim 36, Sundararajan teaches a computer program product for performing a symbolic task operation on a collection (see Abstract), the computer program product being embodied in a computer readable medium and comprising computer instructions for:

For the remaining steps of this claim applicant(s) is/are directed to the remarks and discussions made in claim 22 above.

Response to Arguments

7. Applicant's arguments filed on 7 January 2008 with respect to the rejected claims in view of the cited references have been fully considered but are not deemed persuasive.

In response to Applicant's arguments that Sundararajan does not teach "collection specifier information", the arguments have been fully considered but are not deemed persuasive.

Applicant cited paragraph 14 of the instant disclosure to describe the feature. In that paragraph, Applicant states that collection specifier information may include "special collection processing steps". The job-shop of Sundararajan "describes a capability set of a SC computer with respect to performing a particular type of job", including "very fast number processing routines such as matrix multiplication and graphics image conversion" (see Sundararajan, column 4, lines 15-19). These operations are special operations performed on collections of objects ("jobs"). Thus, the step of describing a "capability set" is a "special collection processing step".

Furthermore, it is noted that within the context of the claimed invention, "collection specifier information and collection content information" are non-functional descriptive matter that do not functionally related to the claimed invention. Therefore they are obvious over any prior art that teaches any "information" stored in fields whatsoever. Applicant is encouraged to amend the claims to define a clear functional

relationship between the steps carried out by the claimed invention and the fields that comprise the collection.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications should be directed to the examiner, Mark A. Radtke. The examiner's telephone number is (571) 272-7163, and the examiner can normally be reached between 9 AM and 5 PM, Monday through Friday.

If attempts to contact the examiner are unsuccessful, the examiner's supervisor, Jeffrey Gaffin, can be reached at (571) 272-4146.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (800) 786-9199.

maxr
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17 April 2008
/Christian P. Chace/
Supervisory Patent Examiner, Art Unit 2165